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10/563,187	12/30/2005	Christopher G. de Janasz	1043-005	5857

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EXAMINER

LE, NANCY LOAN T

ART UNIT	PAPER NUMBER
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3621

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08/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,187	Applicant(s) DE JANASZ, CHRISTOPHER G.	
	Examiner NANCY T. LE	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06 June 2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. This paper is assigned Paper No. 20080813 by the Examiner.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on *06 June 2008* has been entered.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on *06 June 2008* is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Status of Claims

4. Claims 1-33 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6-8, 10-18, 21-31 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,898,397 (Murray) in view of US Patent No. 5,748,101 (Christensen), in view of U.S. Patent Application Publication No. 2002/0178063 A1 (Gravelle et al; hereafter "Gravelle '063").

As per **claims 1 and 6**, Murray '397 discloses a method comprising:

- receiving a signal from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, the signal comprising an encrypted unique identifier (i.e., encoded serial ID), the encrypted unique identifier not comprising a financial account number or a user-provided PIN, the signal transmitted responsive to a predetermined input from a user, the signal requesting approval of a proposed transaction, fulfillment of the proposed transaction not involving the transmitter (col. 4 lines 29-51, col. 6 lines 40-49, col. 7 lines 3-22, col. 9 lines 16-51);

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- transmitting the encrypted unique identifier to a central processor adapted to approve the proposed transaction (col. 4 lines 29-51, col. 6 lines 40-49, col. 7 lines 3-22, col. 9 lines 16-51); and
- receiving an approval from the central processor to complete the proposed transaction (col. 4 lines 29-51, col. 6 lines 40-49, col. 7 lines 3-22, col. 9 lines 16-51).

Murray '397 does not expressly disclose such a method comprising:

- ❖ the signal transmitted responsive to “*a predetermined number of headlight high beam switch activations **within a predetermined time interval***” {claims 1 and 6}.

Christensen '101, however, teaches an encoded signal transmitted from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, wherein the signal transmitted responsive to “*a predetermined number of headlight high beam switch activations **within a predetermined time interval***” {claims 1 and 6} (col. 3 line 63 – col. 5 line 9, col. 11 lines 1-4, col. 37 lines 1-19) to prevent inadvertent switch activations as well as to provide a number of other motivations provided in this prior art (col. 5 line 21 – col. 6 line 11).

Therefore, it would have been obvious to and motivated by an ordinary skill in the art at the time the invention was made to modify a method comprising all the limitation of claim 1 as disclosed above by Murray '397 to add the aspect of “*a predetermined number of headlight high beam switch activations **within a predetermined time interval***” {claims 1 and 6} as taught by Christensen '101 to prevent inadvertent switch

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activations as well as to provide a number of other motivations provided in this prior art (col. 5 line 21 – col. 6 line 11).

Neither Murray '397 nor Christensen '101 teaches or suggests a method further comprising:

- ❖ *responsive to an automatic determination that the unique identifier is associated with a valid financial account, or the proposed transaction involving the valid financial account associated with the unique identifier.*

Gravelle '063, however, teaches a method further comprising:

- ❖ *responsive to an automatic determination that the unique identifier is associated with a valid financial account, or the proposed transaction involving the valid financial account associated with the unique identifier* [0016 – 0019, 0027, 0028],

to ensure there's at least a legitimate source of funds to cover or pay for charges incurred from the proposed transaction [0030, 0031].

Therefore, it would have been obvious to and motivated by an ordinary skill in the art at the time the invention was made to modify a method comprising all the limitation of claim 1 as taught by Murray '397 and Christensen '101 above to add the aspect of “*responsive to an automatic determination that the unique identifier is associated with a valid financial account, or the proposed transaction involving the valid financial account associated with the unique identifier*” to ensure there's at least a legitimate source of funds to cover or pay for charges incurred from the proposed transaction [0030, 0031].

As per **claims 2, 16, 17 and 18**, Murray '397 v. Christensen '101 v. Gravelle '063 teach the method of claims 1 and 15, respectively, further comprising transmitting a request for or obtaining an approval of the proposed transaction (inherently included in any one of the three references; Murray, col. 4 lines 29-51, col. 6 lines 40-49, col. 7 lines 3-22, col. 9 lines 16-51).

As per **claims 7 and 8**, Murray '397 v. Christensen '101 v. Gravelle '063 teach the method of claim 1, further comprising requesting and receiving, respectively, the PIN from the user (see at least Murray, col. 3 lines 44-49, col. 8 line 46 – col. 9 line 40; Gravelle [0020], [0027], [0039]).

As per **claim 10**, Murray '397 v. Christensen '101 v. Gravelle '063 teach the method of claim 1, wherein the proposed transaction comprises provision of access to a physical location (i.e., access to parking garages – see at least Murray or Christensen).

As per **claims 11 and 12**, Murray '397 v. Christensen '101 v. Gravelle '063 teach the method of claim 1, wherein the proposed transaction comprises provision of a product, service, respectively (i.e., fuel, other retailing services – Gravelle [0020], [0024], [0026], [0028]).

As per **claim 13**, Murray '397 v. Christensen '101 v. Gravelle '063 teach the method of claim 1, wherein encryption of the unique identifier utilizes a code-hopping technique (Murray '397, col. 3 lines 50-51).

As per **claim 14**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach a system comprising:

- an input processor adapted to receive a signal from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, the signal comprising an encrypted unique identifier, the encrypted unique identifier not comprising a financial account number or a user-provided PIN, the signal transmitted responsive to a predetermined input from a user, the signal requesting approval of a proposed transaction, fulfillment of the proposed transaction not involving the transmitter (i.e., a built-in/'inherently included' *central processing unit {CPU}*, or the remote control transmitter – see at least Murray '397, col. 3 lines 4-17. The CPUs/processors, which are old and well-known in the art, interpret *instructions* and processes *data* contained in computer programs, provide the fundamental digital computer trait of *programmability*, and are one of the necessary components found in computers of any era, along with *primary storage* and *input/output* facilities. Also please see claim 1 for further citation);
- an output processor adapted to transmit the encrypted unique identifier to a central processor adapted to, responsive to an automatic determination that the unique identifier is associated with a valid financial account, approve the proposed transaction (i.e., a built-in/'inherently included' *central processing unit {CPU}*, or a transmitting device – see at least Murray '397, col. 3 lines 4-17. The CPUs/processors, which are old and well-known in the art, interpret *instructions* and processes *data* contained in computer programs, provide the fundamental digital computer trait of *programmability*, and are one of the

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- necessary components found in computers of any era, along with *primary storage* and *input/output* facilities. Also please see claim 1 for further citation.); and
- an approval processor adapted to receive an approval from the central processor to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier (i.e., a built-in/'inherently included' *central processing unit* {CPU}, or a receiver – Murray '397, col. 9 lines 42-51. The CPUs/processors, which are old and well-known in the art, interpret *instructions* and processes *data* contained in computer programs, provide the fundamental digital computer trait of *programmability*, and are one of the necessary components found in computers of any era, along with *primary storage* and *input/output* facilities. Also please see claim 1 for further citation).

As per **claim 15**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach a method comprising:

- at a central processor (i.e., a built-in/'inherently included' *central processing unit* {CPU}, or a receiver – see at least Murray '397, col. 3 lines 4-49, col. 9 lines 42-51), receiving information originating from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, the information comprising an encrypted unique identifier, the encrypted unique identifier not comprising a financial account number or a user-provided PIN, the information provided from the wireless transmitter responsive to a

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- predetermined input from a user, the information requesting approval of a proposed transaction, fulfillment of the proposed transaction not involving the wireless transmitter (also, see claim 1 for further citation); and
- responsive to an automatic determination that the unique identifier is associated with a valid financial account, automatically transmitting an approval to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier (see claim 1 for citation).

As per **claims 21-24**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach the method of claim 15, further comprising transmitting a rejection of the proposed transaction ***if*** the proposed transaction exceeds a predetermined amount (claim 21), ***if*** a total amount associated with one or more transactions exceeds a predetermined amount (claim 22), ***if*** the proposed transaction exceeds a predetermined amount for a predetermined counter-party (claim 23), ***if*** the proposed transaction exceeds a predetermined amount for a predetermined time interval for a predetermined counter-party (claim 24) (The USPTO interprets claim limitations that contain “**if, may, might, can, when** and **could**” statement(s), as **optional** language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation. Thus, these limitations are considered non-existent.).

As per **claims 25 and 26**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach the method of claim 15, further comprising transmitting a rejection of the proposed transaction ***if*** a counter-party to the proposed transaction is a predetermined restricted counter-party (The Office interprets a restricted counter-party and restricted subject matter are motorist(s) {i.e., restricted counter-party} who has/have negative balance, i.e., who has no money left and further owes money, in his/her account against which the toll is charged/debited {i.e., restricted subject matter} – Slavin et al., col. 10 lines 5-13. Furthermore, the USPTO interprets claim limitations that contain “**if, may, might, can, when and could**” statement(s), as **optional** language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation.).

As per **claims 27 and 28**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach the method of claim 15, further comprising transmitting a rejection of the proposed transaction ***if*** a time of the proposed transaction is a predetermined restricted time/date (Slavin et al., col. 10 lines 31-33. The Office interprets the toll system implicitly rejects the proposed transactions, i.e., toll charges generated from the same transponder within a given time period at geographically remote toll plazas. Furthermore, the USPTO interprets claim limitations that contain “**if, may, might, can, when and could**” statement(s), as **optional** language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC

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2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation.).

As per **claim 29**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach the method of claim 15, further comprising decrypting the encrypted unique identifier (Murray '397, col. 9 lines 41-51).

As per **claim 30**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach the method of claim 15, further comprising causing a comparison of the unique identifier with a list of unique identifiers associated with valid financial accounts (comparison is inherently included in Gravelle, [0030]).

As per **claim 31**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach the method of claim 15, transmitting instructions requesting a transfer of funds associated with the valid financial account responsive to the approval (Gravelle [0027], [0030], [0031]).

Claims 3-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,898,397 (Murray) in view of US Patent No. 5,748,101 (Christensen), in view of U.S. Patent Application Publication No. 2002/0178063 A1 (Gravelle et al; hereafter "Gravelle '063") and further in view of US 5,805,082 (Hassett).

As per **claims 3-5**, none of the Murray '397, Christensen '101 and Gravelle '063, taken alone or in combination thereof teaches or suggests a method further comprising

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“receiving an acknowledgment of fulfillment of the proposed transaction {to the transmitter/user}”.

Hassett '082, however, teaches a method further comprising *“receiving or providing an acknowledgment of fulfillment of the proposed transaction {to the transmitter/user}”* (col. 4 lines 9-19, col. 13 lines 29-44) to notify and/or receive by the transmitter/user an acknowledgement that the proposed transaction is complete.

Therefore, it would have been obvious to and motivated by an ordinary skill in the art at the time the invention was made to modify a method comprising all the limitation of claim 1 as taught by Murray '397, Christensen '101 and in view of Gravelle '063 above to add the aspect of *“receiving or providing an acknowledgment of fulfillment of the proposed transaction {to the transmitter/user}”* as taught by Hassett '082 to notify and/or receive by the transmitter/user an acknowledgement that the proposed transaction is complete.

Claims 9, 19, 20, 32 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,898,397 (Murray) in view of US Patent No. 5,748,101 (Christensen), in view of U.S. Patent Application Publication No. 2002/0178063 A1 (Gravelle et al; hereafter “Gravelle '063”) and further in view of US 2003/0020634 (Banerjee).

As per **claim 9**, none of the Murray '397, Christensen '101 and Gravelle '063, taken alone or in combination thereof teaches or suggests a method further comprising *“polling for the signal”*.

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Banerjee '634, however, teaches a method further comprising "*polling for the signal*" ([0040], Fig. 6 item 606) to track a vehicle while the vehicle is in the priority/express lane.

Therefore, it would have been obvious to and motivated by an ordinary skill in the art at the time the invention was made to modify a method comprising all the limitation of claim 1 as taught by Murray '397, Christensen '101 and in view of Gravelle '063 above to add the aspect of "*polling for the signal*" as taught by Banerjee to track a vehicle while the vehicle is in the priority/express lane.

As per **claims 19, 20, 32 and 33**, Murray '397 v. Christensen '101 v. Gravelle '063 v. teach a method comprising all the limitations included in claim 15 above.

None of those references, taken alone or in combination thereof teaches such a method further comprising "*obtaining/transmitting/storing/reporting a rejection of the proposed transaction*".

Banerjee, however, teaches a method further comprising "*obtaining/transmitting/storing/reporting a rejection of the proposed transaction*" [0039], [0046] to store and report the rejection of the proposed transaction for future action against an offender.

Therefore, it would have been obvious to and motivated by an ordinary skill in the art at the time the invention was made to modify a method comprising all the limitation of claim 15 as taught by Murray '397, Christensen '101 and in view of Gravelle '063 above to add the aspect of "*obtaining/transmitting/storing/reporting a rejection of the*

proposed transaction” to store and report the rejection of a proposed transaction for future action against an offender.

Conclusion

Examiner has cited particular columns and line numbers and/or paragraph and/or page numbers in the prior arts of record as applied to the claims above in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to fully consider the references in its **entirety** as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to NANCY LOAN T. LE whose telephone number is **(571) 272-7066**. The examiner can normally be reached on Monday - Friday, 9am - 6:00pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDREW J. FISCHER can be reached on **(571) 272-6779**.

For official/regular communication, the fax number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

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For informal/draft communication, the fax number is **(571) 273-7066 (Rightfax)**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197 (toll-free)**.

NANCY T. LE
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621